

REGULAR MINUTES

Oceanport, New Jersey
June 3, 1993

REGULAR MEETING: The regular meeting of the Oceanport Mayor and Council was called to order on June 3, 1993 at 8:00 P.M.

MEMBERS PRESENT: Councilpersons Clark, Terra, Filippone, Miller, Taylor, Wolfe and Mayor Cavanagh.

OFFICIALS PRESENT: Borough Clerk, Patricia L. Varca and Borough Engineer, Thomas K. Rospos.

PLEDGE OF ALLEGIANCE: Mayor Cavanagh led the audience and members of the Council in the flag salute.

As copies of the minutes of the regular meetings held on May 6 and May 20, 1993 had been made available for review by the Mayor and Council, Councilman Miller moved to waive the reading of same and approve the minutes as presented by the Borough Clerk. It was seconded by Councilman Wolfe and approved by Council with the exception of Councilwoman Filippone who abstained from voting because she was not present at the two meetings.

CLERK'S REPORTS:

1. Police report for the month of MAY, 1993 and a copy will be posted on the Bulletin Board.
2. Taxi license application made by Anthony Palmieri t/a PARAMOUNT CAB.

The Clerk advised that the application fee had been paid and the Police inspected and approved the vehicle, after which Councilwoman Filippone moved to approve the license. It was seconded by Councilman Miller and unanimously approved by Council.

COMMITTEES:

COUNCILMAN CLARK: Councilman Clark expressed his appreciation and thanks to the Police and First Aid Squad who came to his assistance Monday, May 26, when he had a reaction to medication and he stated they were very professional and timely.

Councilman Clark advised that he has signed the Borough up to take advantage of the Jersey Central Power & Light Co. Power Plus Program where they will install an FM receiver on the central air conditioning systems and the savings to the Borough will be \$180 per year at no expense to the Borough for the equipment. He also advised residents that this program is available to homeowners who have central air conditioning systems and they can save approximately \$25-\$30 annually.

Councilman Clark thanked all the people who assisted in the preparation and planning of the Memorial Day Parade and ceremonies as well as all those who participated by marching and providing speeches. He felt the day turned out very well and was pleased with the event.

COUNCILMAN TERRA: Councilman Terra commended Sgt. John H. Connor, Det. Mauro Baldanza and Ptlm. Donald Ross for completing a course on Alcoholic Beverage Control and Enforcement for Investigators; Det. Mauro Baldanza for completing a Basic Course for Juvenile Officers; Ptlm. Steven Tagerty and Jared Murphy for completing a course on Civil Disturbance/Mutual Aid Response; Ptlm. Raymond Ciani for completing a course entitled Radar Instructor.

ORD.
#634

Councilman Terra called for the second reading and public hearing of an ordinance prohibiting smoking in the Borough Hall and asked the Clerk to read the Affidavit of Publication and the proposed ordinance by title only as follows: AN ORDINANCE PROHIBITING SMOKING IN PUBLIC BUILDINGS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

Mayor Cavanagh then opened the meeting to the public for any comments anyone might care to make on this subject only.

Robert D. Joyce, Chief of the Oceanport Police Department stated he wished to make a statement in regard to the members of his Department concerning this ordinance and he also stated that he knows whatever he says tonight will not change the vote that is about to occur. Chief Joyce commented that the smoking segment concerning employees, which has been discussed on numerous occasions since this issue began, that it is cut and dry and that there is nothing that the employees who smoke can do and also on numerous occasions were informed that is the way it is going to be because this is the trend.

Chief Joyce continued that it was made very clear at the onset what the outcome would be regardless of anyone's opposing opinions or actions. He stated it was made very clear from the beginning that any opposing ideas on the subject were not really welcome even before the position of the smoking segment was made known to the Council. He stated further that an invitation to attend any meetings was only forthcoming after the ordinance was published in the newspaper. Chief Joyce stated that based on passing remarks, apparently the Mayor and Council took the mass complaints that were not made in that form and acted as if they were serious complaints with only one end in mind and that was a ban, and no one was afforded an opportunity to voice opinions opposing smoking restrictions or regulations here.

Chief Joyce advised the Council that he has read Chapter 381 Public Law of 1985 which states the intent of the Legislation and states that the purpose of this Act is to protect the interests of non smokers in Government Buildings and he agrees with that wholeheartedly and 100%, but it also allows the right to smoke in designated areas for smokers in Government Buildings and the Act further states that it involves the determination of when and where rather than whether a smoker may legally smoke. He continued that it allows for an employee to have discussions in the setting of the rules in this regard. Chief Joyce stated that the Community Affairs ruling passed January 21, 1992 provides for air quality standards and for designated smoking areas that there are to be ventilated and separate from non smoking areas. He commented that he had written a note dated May 12 well into the onset of this matter to the Mayor and Council voicing the opinion of the Department that they would like to sit down and discuss it, but that opportunity was never afforded to us until after the publication of this ordinance in the newspaper.

Chief Joyce stated that they have made known that the smoker's were willing to take out of their own pockets, to install a ventilation fan exhausting to the outside and filters, if necessary, for a designated area within the Police Department, but this was not allowed and in fact, today when it was discussed, it was termed as silly and he did not think it was silly. Chief Joyce went on to comment that very few municipalities in the entire State of New Jersey have adopted a total ban on smoking. He stated that many of them have adopted restrictions and designated smoking areas.

Chief Joyce commented that the whole point here is that no one on the opposing side was given the opportunity to voice opinions to the Mayor and Council and he would think that the fair and equitable treatment of both sides of any issue would be of the utmost importance here.

Councilman Terra asked to respond to Chief Joyce, since he felt most of the comments were directed toward him and stated to the Chief, in all fairness, that he personally discussed this matter on March 17 and he has his notes from that meeting to prove so. Councilman Terra continued that at that time he did inform Chief Joyce that the feeling on the Council was very strong in favor of banning smoking and he voiced the feeling at that time to Chief Joyce, as well as several times thereafter, that he would be more than happy to sit down and speak with him to receive his written proposal as to what the Chief felt would be a fair solution to this problem and he even discussed this matter with several Police Officers in the Department the other night and those comments have never come to his desk.

Councilman Terra also stated that he presented the arguments that the Chief gave to him and the arguments that Capt. Bebout gave to him to the Borough Council and none of the comments or arguments were felt to be strong enough to change anyone's vote at that time. Councilman Terra stated that Chief Joyce had an opportunity to speak tonight and he is glad the Chief came in, but he does not want the impression to be left with anyone that the Chief was not informed on this, because he was.

Councilman Clark stated that several of the Councilpersons have strong feelings but to say they have closed minds about it is absolutely absurd and commented that at least his mind is not totally made up and if he were to hear things that influence and change one's feelings, he would be willing to change his mind, but he has not heard anything thus far.

Councilman Miller commented that when Councilman Terra was sick, he was directed by the Mayor prior to March 17, 1993 to go and speak to the Chief about a a number of different items of concern and the first concern that they discussed was the possible smoking prohibition in the Borough Hall and he informed the Chief at that time that there was a sentiment on the Council to do this. Councilman Miller stated that he takes offense at one of the letters the Chief sent where it stated that people had already made up their minds and in reading between the lines, he felt the Chief was referring to the two police representatives on this Council, and he had not made up his mind at that time and the Chief did not know that. He also stated that at this meeting he had asked the Chief for his suggestions and there was a good couple of weeks between the time he came in to speak with the Chief and Councilman Terra returned

from his illness and he never heard hide nor hair of any type of proposal from the Chief and the Chief knows where he lives and has his telephone numbers at both home and work and he felt that some of the Chief's comments that were made tonight are totally unfair and unfounded.

Mayor Cavanagh stated since he is the only one who sits up on the dais that does not vote, he wanted the record to be accurate, so there is no confusion at a later date.

Mayor Cavanagh stated after what he has heard tonight, the following took place: Councilman Miller went to see the Chief on an informal basis alerting him to a proposed concept of making a smoke free Borough Hall, in advance of the March 17 discussion with Councilman Terra; Councilman Terra met with the Chief as stated, on March 17 and had a less formal discussion about this situation as well; prior to the introduction of the ordinance in May, the Chief wrote us a lengthy letter, which the Mayor had with him this evening, with his position outlined prior to the time the ordinance had been introduced. Mayor Cavanagh stated these are three separate examples of discussion between the Department and the Council, before there was an introduction of the ordinance. Mayor Cavanagh also commented that he has the Chief's letter there and has carefully read it twice and cannot find any request to meet with anyone contained in that letter and perhaps he is missing a letter, but there is no request in his letter to sit down with anyone. Mayor Cavanagh then asked Councilman Miller to read the letter to see if there is any request to meet, since he cannot find one.

Mayor Cavanagh stated he was of the opinion that in addition to all of these things, the Council had asked through Councilman Terra, to invite the Chief to the Monday work shop meeting, which Councilman Terra did and the Chief said there was no need to be present, but he gave Councilman Terra three or four conceptual ideas which he asked be presented to the Council.

Councilman Terra stated this comment was correct and he did present the Chief's suggestions to the Council.

Mayor Cavanagh stated he did not want the impression created that there was an attempt to somehow not involve the Department because that it not what happened.

Mayor Cavanagh also wanted to clear up another point made earlier that no other towns are doing this and he stated that we did a small survey, but the Borough of Little Silver advises they have an ordinance which prohibits smoking in Borough Hall; City of Long Branch has an ordinance as well prohibiting smoking in their City Hall; Monmouth Beach has no ordinance, but they have posted No Smoking Signs throughout the building and do not allow smoking in Borough Hall; Rumson - no smoking, but signs posted and they do not allow smoking in Borough Hall; Eatontown does not allow smoking in Borough Hall, but have a lunch room where employees are allowed to smoke; in West Long Branch, no smoking in the Borough Hall, but it is allowed in the Police Department, which is located in the Basement away from the Borough Hall and separated from the public offices. He stated that with all due respect, the weight of the evidence would appear that all of our contiguous neighbors have adopted a similar ordinance.

Councilman Clark commented that he is responsible for Buildings & Grounds and personally knows of no way that you can take a building with a central heating and air conditioning system and separate one room, unless you separate that one room with sweeps at the bottom of the doors, etc. He stated that if someone knows something better, he asked that they let him know and he will certainly consider it.

Mayor Cavanagh stated as a final commentary and in fairness to the people who do smoke, he wanted to acknowledge that this is somewhat of an emotional issue and something that he is not critical because they are concerned about it because it poses a personal inconvenience to anyone not allowed to smoke and it is not something that is a pleasant thought and in that sense we are inhibiting your right to smoke, but the converse to that is that the smoking comes into contact with the general public who come into the Borough Hall and have the right not to have to encounter smoking in order to pay their tax bill or to speak to the Dispatcher about a public complaint and they should not have to endure smoking and that is the sentiment of the Council and not a personal attempt to inhibit someone's habit, but simply a reaction to the health concerns for people who work here and for people who live in town and come to the Borough Hall.

Councilman Terra moved to close the public hearing on this matter. It was seconded by Councilman Wolfe and unanimously approved by Council.

Councilman Terra then moved to adopt this ordinance on second and final reading and to advertise same in accordance with law. It was seconded by Councilman Wolfe.

The Clerk called the roll:

AYES: Councilpersons Clark, Terra, Filippone,
Miller and Wolfe.
NAYS: NONE.
ABSENT: NONE.
ABSTAIN: Councilman Taylor.

Councilman Terra then called for the introduction of an amendment to the Soil Removal Ordinance and asked the Clerk to read the proposed ordinance by title only as follows: AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED "THE SOIL REMOVAL ORDINANCE" OF THE BOROUGH OF OCEANPORT PASSED AND APPROVED ON APRIL 15, 1982.

Councilman Terra moved to approve this ordinance on first reading. It was seconded by Councilman Wolfe.

The Clerk called the roll:

AYES: Councilpersons Clark, Terra, Filippone,
Miller, Taylor and Wolfe.
NAYS: NONE.
ABSENT: NONE.
ABSTAIN: NONE.

Councilman Terra moved to hold the public hearing on this ordinance at the next regular meeting scheduled to be held on June 17, 1993 and to advertise same in accordance with law. It was seconded by Councilman Wolfe.

The Clerk called the roll:

AYES: Councilpersons Clark, Terra, Filippone,
Miller, Taylor and Wolfe.
NAYS: NONE.
ABSENT: NONE.
ABSTAIN: NONE.

Councilman Terra moved to table the matter of the sale of the firetruck. It was seconded by Councilwoman Filippone and unanimously approved by Council.

Mayor Cavanagh commented for the record, we have been asked by the Fire Chief to extend our tabling of the consideration of the ultimate outcome of the ladder truck after the Hook & Ladder Fire House has an opportunity on June 8 to discuss this matter. Mayor Cavanagh extended an invitation in public, through Chief Briskey, that if the Hook & Ladder House through the Chief, would like to meet with the Council at a work shop meeting, they are invited to do that and he should just contact the Borough Clerk and she will assign a time.

Councilman Terra also commented that he has spoken with Art Widmaier, President of the Hook & Ladder Fire House and he invited him to attend their next meeting when they will be discussing this matter.

COUNCILWOMAN FILIPPONE: Councilwoman Filippone thanked everyone who helped her with the Health Screening and once again it was a huge success and we had 163 people participate in the program and we had 52 men who availed themselves of the prostate testing and thankfully we had no positive results from those tests. She also wanted to thank Eleanor and Chris Widdis for all their help with the paperwork because after the health screening, there is a tremendous amount of paperwork to take care of and she was scheduled to have surgery and they finished up all the work and she is very appreciative.

Councilwoman Filippone thanked Councilman Clark for taking over her responsibilities for the Memorial Day Parade and Ceremonies and she congratulated him on a job well done.

Councilwoman Filippone reminded the residents of the Borough that the Boy Scouts are conducting the 1993 Dog Census and she urged everyone to cooperate with them and if anyone had any questions to contact her and she also advised that they most always wear their uniforms when they come to the door.

COUNCILMAN MILLER: Councilman Miller reported that on Wednesday, June 16, one of the members of our Cable Committee, Bob Livingston, will be attending a State Conference to find out about the effects of the new FCC laws as far as the Borough is concerned and about franchising.

Councilman Miller stated he had given a partial report on the May 14 Water Watch Committee sampling and basically the coliform counts were from 10-74 which is down from April and that is good, however, the overall water quality dropped from the mid seventies to sixties, but still about the bad range and the dissolved oxygen was slightly down. He stated what is good about what is going on is that we have comparative

numbers from this year to last year and the river is still in much better shape this year than last year.

Councilman Miller advised that the Waterways Committee will be helping out the Monmouth County Health Department with twice monthly water samplings of the Branchport Creek just to monitor the health of that particular portion because it feeds back into the race track and hopefully the track's permit process for the lagoon project will get through the DEPE and at the end of this season, they will begin construction.

Councilman Miller thanked Councilman Terra for taking over the duties of Waterways Chairman and he will be out with the Committee cleaning up the debris in the river.

COUNCILMAN TAYLOR: Councilman Taylor announced the winners of April Is Alcohol Awareness Month Poster Contest and Catie Murray from the 3rd Grade and Amanda Arnold from the 2nd Grade and they will receive puppet characters that are used in the BABES Program.

Councilman Taylor advised that the next meeting of the Drug Alliance will be on July 16 at the Maple Place School.

Councilman Taylor reported under Environmental, a Poster Contest was held on Memorial Day and there were 285 posters entered in the contest and he thanked them all for getting involved.

Councilman Taylor advised that he will be attending a work shop on Recycling and we will be discussing telephone book recycling and the grass ban situation and it will be held on June 8 at the Monmouth County Library in Manalapan.

R-93-34 COUNCILMAN WOLFE: Councilman Wolfe asked the Clerk to read resolution R-93-34 authorizing an agreement between the State and Borough regarding highway maintenance, after which he moved to approve same. It was seconded by Councilman Clark and unanimously approved by Council.

Councilman Wolfe advised that he received a telephone call this evening from Rabbi Daina and wanted to extend his best wishes to the Council and was still recuperating from a recent illness and he also wanted to thank everyone for his selection to be the Grand Marshal in the Memorial Day Parade.

Councilman Wolfe commended Councilman Clark for the nice job he did on the Memorial Day festivities and parade and welcomed back Councilwoman Filippone.

Councilman Wolfe wanted to remind all residents that the Boroughwide street sweeping is underway and is mid way through and the contractor is heading from the western part of town to the eastern Port-au-Peck section and will be here all day tomorrow and possibly a couple of days next week and asked that all residents keep their vehicles off the roadways during this time.

MAYOR CAVANAGH: Mayor Cavanagh stated on behalf of himself and the other members on the Council, he wished to express their congratulations to Councilman Taylor in recognition of his son being awarded the Zapsik

Award at Christian Brothers at their graduation ceremony and to Councilman Wolfe whose son was inducted into the National Honor Society last week.

Mayor Cavanagh commented that he had just come from Howard Woolley's wake and for those people who did not know Mr. Woolley, they missed a tremendous association and he felt Mr. Woolley was one of the finest gentlemen he had ever met in his life. He continued that Mr. Woolley was active in a variety of things that are too numerous to mention and a 1934 graduate from the Wharton School of Finance, which was quite an accomplishment back in those days and for many years ran Woolley's Department Store in Long Branch and lived in Oceanport almost 20 years and we were much the better for having had him here as a resident. Mayor Cavanagh extended the condolences of the Council to the members of his family.

Mayor Cavanagh opened the meeting to the public for any comments anyone might wish to make.

PETITIONS FROM THE PUBLIC:

Mrs. Brown, 18 Ransom Court showed the Mayor a copy of a letter from Mr. Kirk, Zoning Officer, with regard to a resident who lives next to her and has large amounts of firewood right next to the entrance of her property and she has tried to contact Mr. Kirk and he has not returned any of her calls.

Mayor Cavanagh advised Mrs. Brown that he will contact Mr. Kirk tomorrow and find out how quickly something will be done about this situation and then we will get back to Mrs. Brown.

As no one else from the Council wished to be heard, Mayor Cavanagh closed the public portion of the meeting.

Councilman Clark moved to approve the bills as listed on the Voucher Register dated June 3, 1993. It was seconded by Councilman Miller and approved by Council with the exception of Councilman Clark, who abstained from voting on the bills due Kaabe Glass. TOTAL 1993 VOUCHERS \$54,836.75. TOTAL 1993 VOUCHERS PAID THIS MEETING \$56,615.38. TOTAL 1993 OPERATING FUND \$111,452.13. TOTAL MONEY MARKET ACCOUNT \$46,000.00. TOTAL TRUST ACCOUNT \$145.75. TOTAL PUBLIC ASSISTANCE I-ACCOUNT \$789.00. TOTAL PUBLIC ASSISTANCE II ACCOUNT \$210.00. TOTAL DOG REGISTRY ACCOUNT \$246.60. TOTAL RECREATION TRUST ACCOUNT \$1,100.00. TOTAL GENERAL LEDGER-SHORE REGIONAL HIGH SCHOOL \$145,544.60. TOTAL GENERAL LEDGER-MIDDLE DEPARTMENT INSPECTION AGENCY \$576.00. TOTAL GENERAL LEDGER-LIEN REDEMPTION \$12,805.62. (SEE VOUCHER REGISTER)

At 8:31 P.M. Councilwoman Filippone moved to adjourn the meeting until the next regular meeting scheduled to be held on June 17, 1993 at 8:00 P.M. It was seconded by Councilman Miller and unanimously approved by Council.

Respectfully submitted,

PATRICIA L. VARCA
BOROUGH CLERK